

# MEMORANDUM

Agenda Item No. 11(A)(13)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

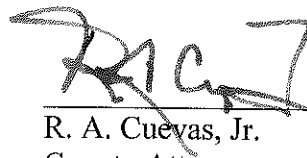
**DATE:** September 3, 2014

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution calling a countywide special election in Miami-Dade County, Florida, for the purpose of submitting to the electors of Miami-Dade County the question of whether to amend the Charter to extend the exemption from the public park use restrictions and construction limitations of Article 7 afforded to the Dade County Youth Fair site to Florida International University

**The sponsoring Commissioner has requested that this resolution become effective upon the earlier of: (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.**

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Esteban L. Bovo, Jr.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/cp



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** September 3, 2014

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 11(A)(13)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(13)  
9-3-14

RESOLUTION NO. \_\_\_\_\_

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 4, 2014, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE CHARTER TO EXTEND THE EXEMPTION FROM THE PUBLIC PARK USE RESTRICTIONS AND CONSTRUCTION LIMITATIONS OF ARTICLE 7 AFFORDED TO THE DADE COUNTY YOUTH FAIR SITE TO FLORIDA INTERNATIONAL UNIVERSITY (FIU) FOR FIU'S EXPANSION ONTO UP TO 64 ACRES OF SUCH SITE UPON THE RELOCATION OF THE YOUTH FAIR AND PROVIDE THAT NO COUNTY FUNDS BE USED FOR FIU'S EXPANSION AND THE REQUIRED RELOCATION OF THE YOUTH FAIR

**WHEREAS**, Article 7 of Miami-Dade County's Home Rule Charter ("Article 7") establishes a policy that "[p]arks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure, and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public's irreplaceable heritage;" and

**WHEREAS**, Article 7 implements this policy by restricting the use of parks to public park purposes only and by restricting the range of permissible development in public parks subject to the requirements of Article 7; and

**WHEREAS**, Article 7 applies to both parks and lands owned by the County as well as to all municipal property, except municipal property owned by Coral Gables, Hialeah, Hialeah Gardens, Miami, Sweetwater and West Miami; and

**WHEREAS**, specifically, Article 7 applies to Tamiami Park located at 11202 Coral Way, but does not apply to those approximately 86 acres of Tamiami Park leased to the Miami-

Dade County Fair & Exposition, Inc. (the "Fair") so long as the Fair continues to operate its Youth Fair at such site; and

**WHEREAS**, Florida International University ("FIU") desires to expand onto a portion of the Dade County Youth Fair site, not to exceed 64 acres, in order to further its educational, research and public outreach missions; and

**WHEREAS**, in order for FIU to accomplish its expansion onto the Dade County Youth Fair site, the Fair will need to be relocated and, per the Fair's lease with the County, all of the Fair's relocation costs, inclusive of the replacement value of all improvements it has paid for either within the Dade County Youth Fair site or elsewhere, will need to be paid by the County; and

**WHEREAS**, FIU has publicly committed itself to funding all of these relocation costs and the County does not desire to fund any of the relocation costs for the Fair or FIU's expansion onto no more than 64 acres at the Dade County Youth Fair site; and

**WHEREAS**, the Home Rule Charter, at Section 9.07(C), authorizes the Board to propose, at any time, amendments to the Home Rule Charter by resolution, which proposed amendments shall be voted upon at the next scheduled general election; and

**WHEREAS**, the Board desires to ask County voters whether they would approve an amendment to Article 7 of the Charter in order to extend the Dade County Youth Fair site's exemption from the public park purposes use restrictions and construction limitations to FIU for its expansion onto no more than 64 acres of the Dade County Youth Fair site within Tamiami Park upon the Fair's relocation and provide that no County funds shall be used for FIU's expansion and the Youth Fair's relocation,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

**Section 1.** A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 4, 2014, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

**Section 2.** Notice of such election shall be published in accordance with Section 100.342, Florida Statutes.

**Section 3.** The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such election, at which time the registration books will close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT EXEMPTING FROM  
ARTICLE 7 FLORIDA INTERNATIONAL  
UNIVERSITY'S EXPANSION ONTO YOUTH FAIR  
SITE

THE DADE COUNTY YOUTH FAIR SITE AT TAMiami  
PARK IS EXEMPT FROM THE PUBLIC PARK PURPOSES  
USE RESTRICTIONS AND CONSTRUCTION LIMITATIONS  
IN ARTICLE 7 OF THE CHARTER. SHALL THE CHARTER  
BE AMENDED TO:

- EXTEND THIS EXEMPTION TO FLORIDA  
INTERNATIONAL UNIVERSITY (FIU) FOR ITS  
EXPANSION ONTO UP TO 64 ACRES OF SUCH SITE  
UPON RELOCATION OF THE YOUTH FAIR; AND

- PROVIDE THAT NO COUNTY FUNDS BE USED FOR FIU'S EXPANSION AND THE YOUTH FAIR'S REQUIRED RELOCATION?

YES ☐

NO ☐

**Section 4.** The form of the ballot shall be in accordance with the requirements of general election laws.

**Section 5.** Early voting shall be conducted in accordance with the requirements of general election laws.

**Section 6.** Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

**Section 7.** A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

**Section 8.** This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her designee, the Finance Director, and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

**Section 9.** This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Commissioner Esteban L. Bovo, Jr. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman  
Lynda Bell, Vice Chair

Bruno A. Barreiro  
Jose "Pepe" Diaz  
Sally A. Heyman  
Jean Monestime  
Sen. Javier D. Souto  
Juan C. Zapata

Esteban L. Bovo, Jr.  
Audrey M. Edmonson  
Barbara J. Jordan  
Dennis C. Moss  
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 3<sup>rd</sup> day of September, 2014. This resolution shall become effective upon the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Monica Rizo

# MIAMI-DADE COUNTY HOME RULE CHARTER

## ARTICLE – 7<sup>1</sup>

### PARKS, AQUATIC PRESERVES, AND PRESERVES

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#### SECTION 7.01. POLICY.

Parks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public's irreplaceable heritage. They shall be protected from commercial development and exploitation and their natural landscape, flora and fauna, and scenic beauties shall be preserved. In lands acquired by the County for preservation and in parks along the Ocean or the Bay the public's access to and view of the water shall not be obstructed or impaired by buildings or other structures or concession which are in excess of 1500 square feet each. Adequate maintenance shall be provided.

#### SECTION 7.02. RESTRICTIONS AND EXCEPTIONS.

In furtherance of this policy parks shall be used for public park purposes only, and subject to the limited exceptions set forth in this Article, there shall be no permanent structures or private commercial advertising erected in a public park or private commercial use of a public park or renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property, unless each such structure, lease, license, renewal, expansion, extension, concession or use shall be approved by a majority vote of the voters in a County-wide referendum. Nothing in this Article shall prevent any contract with federally tax-exempt not-for-profit youth, adult, and senior cultural, conservation and parks and recreation program providers. To ensure aquatic preserves, lands acquired by the County for preservation, and public parks or parts thereof which are nature preserves, beaches, natural forest areas, historic or archeological areas, or otherwise possess unique natural values in their present, such as Matheson Hammock, Greynolds Park, Redlands Fruit and Spice Park, Castellow Hammock, Crandon Park, Trail Glades Park, Deering Estate Park, Pine Shore Park, Old Cutler Hammock, Chapman Field, Tamiami Pinelands, Wainright Park, Larry and Penny Thompson Park, Whispering Pines Hammock, Mangrove Preserve, Owaissa Bauer Park, Fuchs Hammock, Black Point Marina, Simpson Park, Sewell Park, Barnes Park, Virginia Key, mangrove preserves, and all other natural

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<sup>1</sup> Words stricken through and/or >>double bracketed<< shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.



or historical resource based parks do not lose their natural or historical values, any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum. No park shall be designed to be used beyond its appropriate carrying capacity and to the extent required by law all parks and facilities and permitted special events and concessions operating in the parks shall be fully accessible to persons with disabilities. Nothing in this Article shall prevent the maintenance of existing facilities, the maintenance, operation, and renovation of existing golf course and marina restaurants at their existing square footage by government agencies or private operators, provided such private operators are chosen as a result of competitive selection and their initial contract terms are limited to no more than ten years, or the construction, operation, maintenance, and repair by government agencies or private operators of or issuance of temporary permits for:

A. Appropriate access roads, bridges, fences, lighting, flag poles, entrance features, picnic shelters, tables, grills, benches, irrigation systems, walls, erosion control devices, utilities, trash removal, parking and security and fire facilities for the primary use of the park system;

B. Food and concession facilities each not in excess of 1500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;

C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and bandshells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;

D. Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing;

E. Park signage and appropriate plaques and monuments;

F. Rest rooms;

G. Fountains, gardens, and works of art;

H. Park service facilities, senior, day care and pre-school activities, small nature centers with not more than one classroom;

I. Film permits, temporary fairs, art exhibits, performing arts, concerts, cultural and historic exhibitions, regattas, athletic contests and tournaments, none of which require the erection of permanent structures;

J. Advertising in connection with sponsorship of events or facilities in the park, provided however all such facilities and uses are compatible with the particular

park and are scheduled so that such events do not unreasonably impair the public use of the park or damage the park;

K. Programming partnerships with qualified federally tax exempt not-for-profit youth, adult, and senior cultural, conservation, and parks and recreation program providers;

L. Agreements with cable, internet, telephone, electric or similar service providers or utilities, so long as any installations are underground or do not adversely impact natural resources, or parks facilities and uses.

No park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses. The County, the municipalities, and agencies or groups receiving any public funding shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article. No building permit or certificate of occupancy shall be issued for any structure in violation of this Article. The restrictions applying to parks in this Article shall not apply to the Dade County Youth Fair site >>>at Tamiami Park and to any expansion of Florida International University onto no more than 64 acres therein. No County funds shall be used for the University's expansion and for the required relocation of the Miami-Dade County Fair & Exposition, Inc. The restrictions applying to parks in this Article shall also not apply to<<< Metro Zoo, Tamiami Stadium, Haulover Fishing Pier, the Dade County Auditorium, the Museum of Science, the Gold Coast Railroad Museum, Vizcaya Museum and Gardens, Trail Glade Range, the Orange Bowl, the Commodore Ralph Munroe Marine Stadium, the Seaquarium, Curtis Park track and stadium, Fairchild Tropical Gardens, and mini and neighborhood parks except that no mini or neighborhood park may be leased or disposed of unless a majority of the residents residing in voting precincts any part of which is within 1 mile of the park authorize such sale or lease by majority vote in an election.

### **SECTION 7.03. ENFORCEMENT AND CONSTRUCTION.**

All elections required by this Article shall be held either in conjunction with state primary or general elections or as part of bond issue elections. The provisions of this Article may be enforced by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously existing valid written contractual commitments or bids or bonded indebtedness.

#### **SECTION 7.04. JURISDICTION.**

Except as otherwise provided herein the provisions of this Article shall apply to all County and municipal parks, aquatic preserves, and lands acquired by the County for preservation now in existence or hereafter acquired, provided that if this Article was not favorably voted upon by a majority of the voters voting in any municipality at the time of the adoption of this Article the municipal parks of such municipality shall be excluded from the provisions of this Article.